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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,599	12/11/2003	Chris Fry	BEAS-01333US1 SRM/DTX	8210
23910	7590	01/26/2005	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			CHANG, JUNGWON	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/733,599	Applicant(s) FRY, CHRIS	
	Examiner Jungwon Chang	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-58 are presented for examination.
2. It is noted that the present application does not contain line numbers in the claims. The line numbers in the claims have a preferred format that is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the examiner and applicant all future correspondence should include the recommended line numbering.
3. Acknowledgement is made of receipt of oath/declaration filed on 5/17/2004.
4. Acknowledgement is made of the letter filed on 5/17/2004, which requested for correction of title. The title has been corrected.
5. Claim 2 is objected to because of the following informalities:
Line 2, "the first and second computing device" should be "the first and second computing devices". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The claim language in the following claims is not clearly understood:

i. As to claim 1, line 4, it is uncertain whether "the computing device" refers to "a second computing device" in line 3;

ii. As to claims 4-6, line 1, it is uncertain whether "the computing device" refers to "a second computing device" in claim 1, line 3;

iii. As to claims 7 and 8, line 2, it is not clearly understood what is meant by "the state information on at least one primary computing device" (i.e., according to claim 1, the state information is maintained by the second computing device); Lines 2-3 it is not clearly understood the relationship between "primary computing device, secondary computing device" and "first computing device, second computing device" in claim 1;

iv. As to claim 8, line 3, the limitation "the new primary" is insufficient antecedent basis for this limitation in the claim (i.e., the new primary computing device?);

v. As to claim 9, it is uncertain whether "computing devices" refers to "first computing device", "second computing device", or "first and second computing devices".

vi. As to claim 10, line 5, it is uncertain whether "the computing device" refers

to "a second computing device" in line 4;

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-6, 9-16, 19-34, 37-48 and 51-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Iyer (2001/0037367).

10. As to claim 1, Iyer discloses the invention as claimed, including a system to provide conversation states (current state, 36, fig. 2; page 3, [0026], lines 3-5; page 3, [0029], lines 5-8), comprising:

a first computing device (recipient; client, fig. 1) capable of accepting a message for a conversation (visitor clients can connect to the shared area in order to communicate with one another; page 2, [0022], lines 19-22; page 2, [0023]);

a second computing device (client, fig. 1) capable of maintaining the state for a conversation (70, 72, fig. 4b; user device stores, in a permanent storage area of the user device, the transmitted information; page 1, [0008], lines 10-18; fig. 2; page 3, [0026]; page 3, [0030], lines 13-17); and

a conversation manager (server, 18, figs. 1 and 6) capable of identifying

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the computing device which maintains the state for a conversation (74a-74c, fig. 4b; page 2, [0025]; page 3, [0030], lines 16-22).

11. As to claim 2, Iyer discloses the first and second computing device form a cluster (members of the group; page 1, [0005]; page 1, [0012]; page 5, [0038], lines 1-11).

12. As to claim 3, Iyer discloses the conversation manager is capable of maintaining the locations of all states in the system (20, 22, fig. 1; 19, 20, fig. 6; page 2, [0025]; page 4, [0033]; page 4, [0034], lines 29-46).

13. As to claims 4-6, Iyer discloses a computing device is capable of maintaining its state information, which may include, but is not limited to, a map of every state leased, owned, or stored on it (70, 72, fig. 4b; user device stores, in a permanent storage area of the user device, the transmitted information; page 1, [0008], lines 10-18; fig. 2; page 3, [0026]; page 3, [0030], lines 13-17; the owners will get an identification listing them as the originators or owners of certain subject information; page 4, [0033], lines 5-8).

14. As to claim 9, Iyer discloses the conversation manager is capable of periodically determining the availability of computing devices (license right manager 19 can verify the status of the visitors at predetermined time intervals; page 4, [0034], lines 39-42).

15. As to claim 10, it is rejected for the same reasons set forth in claim 1 above. In

addition, Iyer discloses a conversation partner (sender; client; fig. 1) capable of providing a message for a conversation (visitors can communicate with the owner and other visitors through message, chat rooms; page 5, [0038], lines 18-28).

16. As to claim 11, Iyer discloses the message includes a conversation ID (fig. 4a; header portion includes a unique electronic identifier; page 3, [0028]).

17. As to claim 12, it is rejected for the same reasons set forth in claim 2 above.

18. As to claim 13, it is rejected for the same reasons set forth in claim 3 above.

19. As to claims 14-16, they are rejected for the same reasons set forth in claims 4-6 above.

20. As to claim 19, it is rejected for the same reasons set forth in claim 9 above.

21. As to claim 20, Iyer discloses a computing device is capable of contacting the conversation manager to determine the location of a state using the conversation ID (page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13).

22. As to claim 21, Iyer discloses a computing device is capable of answering a

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request for a state directly without contacting the conversation manager if it owns such state (it is possible that during the control of one owner, visitors can communicate with the owner without the assistance of the ARM; page 5, [0038], lines 15-18).

23. As to claims 22-24, Iyer discloses the conversation manager is capable of accepting a request for the location of a state from a computing device (page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13).

24. As to claim 25, Iyer discloses a computing device is capable of invoking a state on a computing device in order to respond to a conversation message received (visitors can comment on the music CD...and ask to stop playing, to fast forward, or to replay the CD...based on the reaction of the visitors, the owner wants to make appropriate changes; page 5, [0038], lines 22-28).

25. As to claim 26, Iyer discloses the conversation manager is capable of sharing a state with at least two conversations (sharing of information through a communication network; page 1, [0002], [0008], [0009]).

26. As to claim 27, Iyer discloses the conversation manager is capable of tracking a participating Web service that initiates conversation (license right manager 19 which monitors the right of the owner to play and the right of the visitor to view the played

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movie; page 4, [0034], lines 29-35; license right manager 19 can verify the status of the visitors at predetermined time intervals; page 4, [0034], lines 39-42).

27. As to claim 28, Iyer discloses the conversation manager is capable of sharing a state with at least two Web services (a group of friends can share music CDs in the shared area; page 5, [0038], lines 1-5; and joining the sessions of these services (the visitors are invited by the owner will be able to hear the music; page 1, [0009], lines 1-7; page 1, [0012]; joining; page 2, [0019]).

28. As to claim 29, it is rejected for the same reasons set forth in claims 1 and 10 above. In addition, Iyer discloses providing a conversation for a Web service (sharing information through a web site; page 1, [0003]; page 1, [0009]; shared area has a unique identifier such as a universal resource locator for the world wide web, contain information; page 2, [0022], lines 12-22; page 5, [0041]); accepting a conversation message from a conversation partner (visitors can communicate with the owner and other visitors through message, chat rooms; page 5, [0038], lines 18-28); contacting a conversation manager to determine the location of the state for a conversation (when an attempt is made to use or access a particular piece of subject information which stored in a file, the visitor client will have to verify the existence of the owner, the shared area ID, and the location ID; page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13); accepting (receiving) the location of a state from the conversation manager (page 3,

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[0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13); invoking a state on a computing device in order to respond to the conversation message received (visitors can comment on the music CD...and ask to stop playing, to fast forward, or to replay the CD...based on the reaction of the visitors, the owner wants to make appropriate changes; page 5, [0038], lines 22-28).

29. As to claim 30, it is rejected for the same reasons set forth in claim 29 above. In addition, Iyer discloses invoking a state on a computing device in order to respond to the conversation message received (visitors can comment on the music CD...and ask to stop playing, to fast forward, or to replay the CD...based on the reaction of the visitors, the owner wants to make appropriate changes; page 5, [0038], lines 22-28) directly without contacting the conversation manager if it owns such state (it is possible that during the control of one owner, visitors can communicate with the owner without the assistance of the ARM, i.e., authentication and management, 20, fig. 1; page 5, [0038], lines 15-18).

30. As to claim 31, it is rejected for the same reasons set forth in claim 3 above.

31. As to claims 32-34, it is rejected for the same reasons set forth in claims 4-6 above.

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32. As to claim 37, it is rejected for the same reasons set forth in claim 9 above.

33. As to claim 38, Iyer discloses providing a conversation message to a computing device (sharing of information through a communication network; page 1, [0002], [0008], [0009]; visitors can communicate with the owner and other visitors through message, chat rooms; page 5, [0038], lines 18-28).

34. As to claim 39, it is rejected for the same reasons set forth in claims 22-24 above.

35. As to claim 40, it is rejected for the same reasons set forth in claim 26 above.

36. As to claim 41, it is rejected for the same reasons set forth in claim 27 above.

37. As to claim 42, it is rejected for the same reasons set forth in claim 28 above.

38. As to claim 43, it is rejected for the same reasons set forth in claim 29 above.

In addition, Iyer discloses a machine readable medium (memory, 84, fig. 5) having instructions (computer program) stored thereon that when executed by a processor (processor, 82, fig. 5) cause a system to (page 3, [0031]).

39. As to claim 44, it is rejected for the same reasons set forth in claim 30 above. In

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addition, Iyer discloses a machine readable medium (memory, 84, fig. 5) having instructions (computer program) stored thereon that when executed by a processor (processor, 82, fig. 5) cause a system to (page 3, [0031]).

40. As to claim 45, it is rejected for the same reasons set forth in claim 3 above.

41. As to claims 46-48, it is rejected for the same reasons set forth in claims 4-6 above.

42. As to claim 51, it is rejected for the same reasons set forth in claim 9 above.

43. As to claim 52, it is rejected for the same reasons set forth in claim 38 above.

44. As to claim 53, it is rejected for the same reasons set forth in claims 22-24 above.

45. As to claim 54, it is rejected for the same reasons set forth in claim 26 above.

46. As to claim 55, it is rejected for the same reasons set forth in claim 27 above.

47. As to claim 56, it is rejected for the same reasons set forth in claim 28 above.

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48. As to claim 57, it is rejected for the same reasons set forth in claim 29 above.

49. As to claim 58, it is rejected for the same reasons set forth in claim 43 above.

In addition, Iyer discloses a computer data signal embodied in a transmission medium (communications link; page 1, [0012]; communication network; page 2, [0022]; Internet; page 3, [0029]).

Claim Rejections - 35 USC § 103

50. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

51. Claims 7, 8, 17, 18, 35, 36, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iyer, in view of Eide et al. (2004/0078455).

52. As to claim 7, 8, 17 and 18, Davis discloses routing to the secondary computing device when the primary computing device is unavailable (forwarding the message from user1 to any other available secondary processing device; page 3, [0039]).

However, Davis does not specifically disclose the state information on at least primary computing device can be replicated to one secondary computing device; and setting the

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second computing device as the new primary when the primary computing device fails. Eide discloses the state information on at least primary computing device can be replicated to one secondary computing device (page 1, [0003]; page 5, [0046]); and setting the second computing device as the new primary (page 1, [0004], lines 6-11; page 5, [0047]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Davis and Eide because Eide's backup node would improve reliability and fault tolerant of Davis's system by allowing the backup node to continue operating previously performed by the primary node in the event of primary node failure.

53. Claims 35, 36, 49 and 50, they are rejected for the same reasons set forth in claims 7, 8, 17 and 18 above.

Conclusion

54. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Dan et al, patent 6,401,111, DeSimone et al, patent 6,212,548, Dunbar et al, 2004/0078435, Fay et al, 2004/0146508, Lee, 2004/0015548, Vincent, 2003/0131050, Friedman, 2004/0034687, Schwartz et al, 2004/0136511, Davis et al, 2004/0158610 disclose a method and system for saving and capturing each message sent and received with a corresponding message Identifier.

Budzik et al, "Clustering for Opportunistic Communication", Dept. of Computer Science,

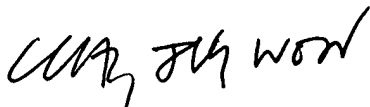
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Northwestern University, July, 16, 2002 discloses URL based collaboration system that allow users who are visiting the same Web resources to talk with each other using instant message or videoconferencing.

55. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is 571-272-3960. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JWC
January 24, 2005